IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.1627 OF 2005

M/s.Associated Brothers ....Plaintiff
V/s.
M/s.Mahavir Plastics & Ors. ....Defendants

Mr.Sunil Chaturvedi for the Plaintiff.
Mr.Piyush Shah for Defendant No.3.

CORAM : S.J. VAZIFDAR, J.
DATED : 14TH DECEMBER, 2005.

P.C. :

1. The suit is filed to recover the balance price of the goods sold and delivered by the Plaintiff to Defendant No.1.

2. The Plaintiff has filed the compilation of the original documents. The same is taken on record and marked Exhibit "A" collectively.

3. Defendant Nos.2 and 3 are allegedly the partners of Defendant No.1. Defendant Nos.1 and 2 have not filed any appearance. The Summons for Judgment has been taken out only against Defendant No.3, who has filed his appearance. The case of Defendant No.3 is that he is not a partner of

Defendant No.1. By consent, Defendant No.3 is allowed to be dropped with leave to the Plaintiff to execute the decree against Defendant No.3 in the event of it being established in execution proceeding that he is the partner of Defendant No.1.

4. The suit is filed to recover the balance price of the goods sold and delivered by the Plaintiff to the Defendants on the terms and conditions contained in the suit invoice. A cheque towards the part payment was dishonoured.

5. There is no reply to the Plaintiff’s advocate notice demanding payment. There is nothing on record that militates against the Plaintiff’s claim. This is a fit case where the averments and the submissions in the plaint ought to be accepted as correct.

6. In the circumstances, the suit is decreed as against Defendant Nos.1 and 2. Summons for Judgment as against Defendant No.3 is dismissed with leave to the Plaintiff as aforesaid.

. Refund as per rules.